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09/838,320	04/19/2001	Peter B. Everdell	102689-86	1320

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EXAMINER

COULTER, KENNETH R

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/838,320

**Applicant(s)**

EVERDELL ET AL.

**Examiner**

Kenneth R. Coulter

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-35 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 05 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(f) he did not himself invent the subject matter sought to be patented.

2. Claims 1 - 35 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter.

2.1 Applicant has stated that the present Application is a Continuation-in-part of U.S. Patent Application Serial No. 09/663,947 filed on September 18, 2000.

Applicant has indicated that independent claims 1, 1315, 17, 19, 21, 23, 28, 29, and 30 are disclosed in 09/663,947.

09/663,947 is an abandoned Application with inventors John Wagner, Kevin D. Snow, and Darryl Black. The present Application has inventors Peter B. Everdell, Chris R. Noel, Brian Branscomb, and Nicholas A. Langrind.

A discrepancy exists as to inventorship of the present Application.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Zadikian et al. (U.S. Pat. No. 6,724,757) (Configurable Network Router).

4.1 Regarding claim 1, Zadikian discloses a telecommunications network device, comprising:

a plurality of distributed processors (Fig. 3, items 350, 351; Figs. 7, 11);

a data path coupled to the plurality of distributed processors (col. 8, lines 40 – 47 “data path”); and

a switched control path coupled to the plurality of distributed processors (Fig. 3; col. 11, lines 11 – 22 “control path 300”).

4.2 Per claim 2, Zadikian teaches the telecommunications network device of claim 1, wherein the switched control path is a first switched control path and further comprising:

a second switched control path coupled to the plurality of distributed processors (Fig. 3; col. 12, lines 30 – 41 “redundant control bus”; col. 18, lines 6 - 10).

4.3 Regarding claim 3, Zadikian discloses the telecommunications network device of claim 2, wherein the first and second switched control paths comprise redundant

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switched control paths (Fig. 3; col. 12, lines 30 – 41 “redundant control bus”; col. 18, lines 6 - 10).

4.4 Per claim 4, Zadikian teaches the telecommunications network device of claim 1, wherein the switched control path comprises an Ethernet switch (col. 18, line 4 “Ethernet switches”).

4.5 Regarding claim 5, Zadikian discloses the telecommunications network device of claim 4, wherein the Ethernet switch comprises: an Ethernet switch subsystem; and a plurality of physical Ethernet port chips coupled to the Ethernet switch subsystem, wherein each of the plurality of distributed processors is coupled with at least one of the plurality of physical Ethernet port chips (Fig. 3; col. 18, lines 5 - 10).

4.6 Per claim 6, Zadikian teaches the telecommunications network device of claim 5, wherein the plurality of physical Ethernet port chips is a first plurality of physical Ethernet port chips and the Ethernet switch subsystem comprises:

an Ethernet switch chip (Fig. 3; col. 18, lines 5 - 10); and

a second plurality of physical Ethernet port chips coupled with the Ethernet switch chip, wherein the second plurality of Ethernet port chips are further coupled with the first plurality of physical Ethernet port chips (Fig. 3; col. 8, lines 10 - 23).

4.7 Regarding claim 7, Zadikian discloses the telecommunications network device of

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claim 1, wherein the switched control path comprises a proprietary bus (col. 11, lines 24 - 44).

4.8 Per claim 8, Zadikian does not explicitly teach the telecommunications network device of claim 1, wherein the switched control path comprises an Asynchronous Transfer Mode network.

The Examiner hereby takes official notice that an ATM network is commonly used as a switched control path. Zadikian discloses a switched control path (Abstract; Fig. 3). Therefore it would have been inherent to implement a ATM network in Zadikian.

4.9 Regarding claim 9, Zadikian does not explicitly disclose the telecommunications network device of claim 1, wherein the switched control path comprises a Multi-Protocol Label Switching network.

The Examiner hereby takes official notice that an MPLS network is commonly used as a switched control path. Zadikian discloses a switched control path (Abstract; Fig. 3). Therefore it would have been inherent to implement a MPLS network in Zadikian.

4.10 Per claim 10, Zadikian teaches the telecommunications network device of claim 1, further comprising: a plurality of cards, wherein at least one of the plurality of processors is mounted on each of the plurality of cards (Fig. 3; col. 8, lines 10 - 23).

4.11 Regarding claim 11, Zadikian discloses the telecommunications network device

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of claim 1, wherein at least a portion of the plurality of distributed processors are coupled to the switched control path through multiple independent ports (Fig. 3; col. 11, lines 32 - 44).

4.12 Per claim 12, Zadikian teaches the telecommunications network device of claim 1, further comprising: an external port coupled with the switched control plane (Abstract; Fig. 3).

4.13 Regarding claim 35, Zadikian discloses a telecommunications network device, comprising:

- a plurality of distributed processors (Fig. 3, items 350, 351; Figs. 7, 11);

- a data path coupled to the plurality of distributed processors (col. 8, lines 40 – 47 “data path”); and

- a switched control path coupled to the plurality of distributed processors, said control path providing a dedicated bandwidth to each processor for transmission of control information (col. 7, lines 23 – 54 “desired quality of service (QOS)”);

- wherein each one of said distributed processors is coupled to the switched control path through multiple independent ports (Fig. 3; col. 11, lines 32 - 44).

4.14 Regarding claims 13 – 34, the rejection of claims 1 – 12 and 35 under 35 USC 102(e) (paragraphs 4.1 – 4.13 above) applies fully.

5. Claims 1 – 3, 8, 10 – 12, 13, 15, 17 – 23, 25, 30, 31, and 33 - 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Christensen et al. (U.S. Pat. No. 6,591,374) (Method and Apparatus for Forcing System Components to Temporarily Enter a Standby Mode of Operation During Switching Events).

5.1 Regarding claim 1, Christensen discloses a telecommunications network device, comprising:

a plurality of distributed processors (Figs. 2, items 210, 211, 212);

a data path coupled to the plurality of distributed processors (Abstract; Fig. 1);

and

a switched control path coupled to the plurality of distributed processors

(Abstract; Figs. 2, 6).

5.2 Per claim 2, Christensen teaches the telecommunications network device of claim 1, wherein the switched control path is a first switched control path and further comprising:

a second switched control path coupled to the plurality of distributed processors (Fig. 6).

5.3 Regarding claim 3, Christensen discloses the telecommunications network device of claim 2, wherein the first and second switched control paths comprise



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redundant switched control paths (Fig. 6 "REDUNDANT CONTROL BUS 333"; Abstract; col. 4, lines 51 - 55).

5.4 Per claim 8, Christensen teaches that the switched control path comprises an Asynchronous Transfer Mode (ATM) network (col. 4, lines 15 - 29).

5.5 Regarding claim 10, Christensen discloses a plurality of cards, wherein at least one of the plurality of processors is mounted on each of the plurality of cards (Figs. 2, 4).

5.6 Per claim 11, Christensen teaches that at least a portion of the plurality of distributed processors are coupled to the switched control path through multiple independent ports (Figs. 2, 4).

5.7 Regarding claim 12, Christensen discloses an external port coupled with the switched control plane (Abstract; Figs. 2, 4).

5.8 Regarding claim 35, Christensen discloses a telecommunications network device, comprising:

a plurality of distributed processors (Fig. 2, items 210, 211, 212; Abstract);

a data path coupled to the plurality of distributed processors (Abstract; Fig. 1);

and

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a switched control path coupled to the plurality of distributed processors, said control path providing a *dedicated bandwidth* to each processor for transmission of control information (Abstract; Figs. 2, 6; col. 4, lines 41 – 49),

wherein each one of said distributed processors is coupled to the switched control path through multiple independent ports (Fig. 4).

5.9 Per claims 13, 15, 17 – 23, 25, 30, 31, 33, and 34, the rejection of claims 1 – 3, 8, 10 – 12 and 35 under 35 USC 102(e) (paragraph 5.1 – 5.8 above) applies fully.

6. Claims 1 – 34 are rejected under 35 U.S.C. 102(e) as being disclosed by Ferguson et al. (U.S. Pat. Pub. No. 2002/0059424) (Flow Scheduling for Network Application Apparatus).

6.1 Regarding claim 1, Ferguson discloses a telecommunications network device, comprising:

a plurality of distributed processors (Abstract; Figs. 2, 4);

a data path coupled to the plurality of distributed processors (Abstract; Figs. 2, 4); and

a switched control path coupled to the plurality of distributed processors (Abstract; Figs. 2, 4; p. 5, paragraph 5).

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6.2 Per claim 2, Ferguson teaches the telecommunications network device of claim 1, wherein the switched control path is a first switched control path and further comprising:

a second switched control path coupled to the plurality of distributed processors (Fig. 4).

6.3 Regarding claim 3, Ferguson discloses the telecommunications network device of claim 2, wherein the first and second switched control paths comprise redundant switched control paths (p. 5, paragraph 45).

6.4 Per claim 4, Ferguson teaches the telecommunications network device of claim 1, wherein the switched control path comprises an Ethernet switch (p. 5, paragraph 45; p. 8, paragraph 72).

6.5 Regarding claim 5, Ferguson discloses the telecommunications network device of claim 4, wherein the Ethernet switch comprises: an Ethernet switch subsystem; and a plurality of physical Ethernet port chips coupled to the Ethernet switch subsystem, wherein each of the plurality of distributed processors is coupled with at least one of the plurality of physical Ethernet port chips (p. 5, paragraph 45; p. 8, paragraph 72).

6.6 Per claim 6, Ferguson teaches the telecommunications network device of claim

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5, wherein the plurality of physical Ethernet port chips is a first plurality of physical Ethernet port chips and the Ethernet switch subsystem comprises:

an Ethernet switch chip (p. 5, paragraph 45; p. 8, paragraph 72); and

a second plurality of physical Ethernet port chips coupled with the Ethernet switch chip, wherein the second plurality of Ethernet port chips are further coupled with the first plurality of physical Ethernet port chips (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72).

6.7 Regarding claim 7, Ferguson discloses the telecommunications network device of claim 1, wherein the switched control path comprises a proprietary bus (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72).

6.8 Per claim 8, Ferguson teaches the telecommunications network device of claim 1, wherein the switched control path comprises an Asynchronous Transfer Mode network (Fig. 6C; pp. 4-5, paragraph 52).

6.9 Regarding claim 9, Ferguson does not explicitly disclose the telecommunications network device of claim 1, wherein the switched control path comprises a Multi-Protocol Label Switching network.

The Examiner hereby takes official notice that an MPLS network is commonly used as a switched control path. Ferguson discloses a switched control path (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72). Therefore it would have been inherent to implement

a MPLS network in Ferguson.

6.10 Per claim 10, Ferguson teaches the telecommunications network device of claim 1, further comprising: a plurality of cards, wherein at least one of the plurality of processors is mounted on each of the plurality of cards (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72).

6.11 Regarding claim 11, Ferguson discloses the telecommunications network device of claim 1, wherein at least a portion of the plurality of distributed processors are coupled to the switched control path through multiple independent ports (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72).

6.12 Per claim 12, Ferguson teaches the telecommunications network device of claim 1, further comprising: an external port coupled with the switched control plane (Fig. 4; p. 5, paragraph 45; p. 8, paragraph 72).

6.13 Regarding claims 13 – 34, the rejection of claims 1 – 12 under 35 USC 102(e) (paragraphs 6.1 – 6.12 above) applies fully.

### ***Response to Arguments***

7. Applicant's arguments filed 2/10/05 have been fully considered but they are not persuasive.

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Applicant has argued that Ferguson (U.S. Pat. Pub. No. 2002/0059424) is not applicable since the effective filing date is after the filing date of a related Application 09/663,947 filed on September 18, 2000.

The arguments rebutting this are above in the 35 USC 102(f) rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

krc

KENNETH R. COULTER  
PRIMARY EXAMINER  
